



WISCONSIN REGULATORY DIGEST

A Publication of the DEPARTMENT OF REGULATION AND LICENSING FOR AUCTIONEERS AND AUCTION COMPANIES

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February, 2000

A Message From the Board Chair Richard O. Lust

The last issue of the Regulatory Digest contained the rule revisions that became effective on August 1, 1999. In spite of the error in s. RL 126.02 (3), Wis. Admin. Code, discussed on page 2 of this issue of the Regulatory Digest, you should already have removed any references to a "buyer's premium" from your ads, contracts and notices. Secretary Marlene Cummings advised the Senate Committee on Labor that consumers do not understand the meaning of "buyer's premium." The committee accepted Secretary Cummings' advice and agreed to have "buyer's premium" removed from the rules. The acceptable terms are "buyer's surcharge" or "buyer's fee." You are expected to use these terms, in order to comply with the notice requirement in s. RL 126.02 (3). This is a very serious matter and I urge you not to take it lightly.

Now, turning to another topic, I'd like to discuss continuing education. Anyone whose registration expired on December 31, 1998, was required to satisfy Wisconsin's continuing education

requirement, in order to renew his or her registration. Most registrants attended continuing education courses or took the test-out exam. A few said they did; however, they actually did not. They either thought that continuing education courses taken in another state would be acceptable in Wisconsin or they arrived at an otherwise incorrect conclusion. In any case, the Board insisted on 100% compliance with this one-time continuing education requirement.

Thus, some registrants who erroneously renewed their registration have now taken the test-out exam; others have turned in their registration certificate; others are facing disciplinary action by the Board. This may be a good time to remind you that auctioneers who wish to renew a **current** registration at the end of 2000 will **not** be required to complete any continuing education for renewal.

The State of Illinois now has an auctioneer license law. Wisconsin and Illinois have begun discussions concerning a reciprocal licensing/registration agreement. We expect to have an agreement ready by the end of February or March.

THE WISCONSIN AUCTIONEER BOARD

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Wisconsin Sales Tax Brochure

The Wisconsin Department of Revenue (DOR) has revised its brochure, entitled "Auctioneers: How Do Wisconsin Sales Use Taxes Affect Your Operations?" DOR has informed us that the Wisconsin Auctioneers Association has requested copies for their members. We will mail revised copies to new applicants. Others who wish to receive a copy should call DOR at 608-266-2776. The brochure is also available at the DOR Web site: www.dor.state.wi.us/pubs/00pb217.pdf

Internet Queries for Registered Auctioneers

The Department of Regulation and Licensing now has a Web site on which you can obtain information about registered auctioneers and auction companies. The Web address is: www.state.wi.us/agencies/drl Click on "Credential Holder Query."

Temporary Registration Certificates

The Board and Secretary Marlene Cummings have had several discussions about eliminating temporary registrations, or at least shortening the time during which a registrant may provide auction services under a temporary registration. Currently, a person may obtain a temporary registration, without having passed the exam and must then pass the exam before the end of one year. If the person passes the exam, he or she can then obtain a non-temporary registration certificate.

The Board feels that the temporary registration provision is obsolete for the following reasons:

1. Temporary registration was established for auctioneers who could not be grandfathered
2. The tests were originally administered yearly; now the tests are given weekly, Tuesday through Saturday.
3. Auctioneer credentialing needs to be consistent with other credentials in the Department.
4. Many of the temporary registrants come into Wisconsin for a few auctions and don't ever take the exam.

It is quite certain that a statutory proposal or a rule draft will be prepared during the next few months. You will receive more information about a specific proposal in the next issue of the Regulatory Digest.

Revised Rules Contain a Few Errors

The Department and the Board will soon be taking appropriate action to correct a few minor errors that were discovered after publication of the rule revisions that were published in the last issue of the Regulatory Digest. Please make the following corrections in your copy of the rules:

1. A note under s. RL 125.03 says: "This provision applies only to registrants required to maintain a trust account. Registrants for whom a trust account is required must use the trust account bookkeeping system described in s. RL 125.11." The problem is that Section RL 125.11 no longer exists. The note should have referred to RL 125.12.

2. The changes that were made, relating to eliminating "buyer's premium" were only partially made. The revised rules replaced "premium" with "fee" the first time this term occurred in the paragraph, but failed to replace the word "premium" the second time this phrase occurs toward the end of the paragraph. Another revision is needed to replace "premium" with "fee." The correct term is "buyer's fee" or "buyer's surcharge."

Legislative Changes

The Department, with the recommendation of the Board, had requested legislation to be drafted and introduced to permit auctioneers to abbreviate "registered Wisconsin auctioneer" in their ads. You will find the proposal in companion bills, AB 437 and SB 224. Several hearings have been held on these bills and they are progressing through both houses of the legislature. We anticipate giving you the final word on the statutory change in the next issue of the Regulatory Digest. Remember: *the Legislature must pass a new law for this practice to become legal; however, the board, generally, does not discipline a registrant who abbreviates "registered Wisconsin auctioneer."*

Statistics

Complaints received from 1/1/99 to 10/19/99 - 31

Registered auctioneers - *951

Registered auction companies - *171

*The numbers in the September 1999 Digest were incorrect.

Fee Increases

The Biennial Budget Bill included some fee changes that affect auctioneers and auction companies.

Initial registration fees for all professions in the department were increased from \$41 to \$43.

Auction company renewal fees were increased from \$41 to \$47. Auctioneer renewal fees were increased from \$100 to \$135. Renewal fees for all professions and occupations credentialed by the department significantly vary, because the fees include the costs of enforcement (investigations and disciplinary actions). There have been a relatively high number of complaints against auctioneers.

Continuing Education

No auctioneers or auction companies are required to complete continuing education in order to renew their registration certificates in the fall of 2000. The only

auctioneers who would still be required to complete continuing education requirements are those who were registered during 1997-98 and who wish to renew their registration that expired on December 31, 1998. Before renewing, they must satisfy the continuing education requirement. However, since the 9-hour continuing education course is practically unavailable at this time, these individuals would have to take and pass the test-out exam administered by the department (not to be confused with the pre-registration exam administered by PSI Examination Services).

Complaints and Investigations

The following summaries of 4 cases will give you a flavor of the complaints received by the Board and may motivate you to be more careful in similar situations. Note that these summaries are as brief as possible and they do not describe all of the investigation that occurred.

Allegation: Dishonest purchase of equipment and alteration of contract after agreement. Complainant said that the auctioneer auctioned his 1990 Kenworth truck-tractor. The contract called for a minimum bid of \$17,500. However, after the auction the complainant was told that the truck sold for \$14,500. Three months later the complainant learned that the auctioneers were using the truck to haul equipment to auction sites. The investigation showed that the complainant had added a note concerning a minimum bid on the contract mailed back to the auctioneer. Both the complainant and the auctioneer had not agreed to it. The truck was sold at auction; however, the buyer rejected it, due to defect, and the truck reverted back to the auctioneer. Conclusion: There is sufficient evidence to show that no violation of statutes and rules occurred. Refer case to Division of Motor Vehicle Dealers.

Allegation: Complainant alleges that the auctioneer accepted items for auction, held the auction and failed to pay him the proceeds. The renewal of registration of the auctioneer was denied due to delinquent state taxes. Conclusion: There may have been a violation, but because the person or entity in question is no longer actively practicing or does not have a current credential to practice, place the credential on HOLD. If the person submits an application for renewal of the credential or the credential is renewed, the case may be reopened.

Allegation: A registered auctioneer allowed an unregistered person to call auctions for him. The registered auctioneer stated that the other person assured him that the other person was registered at the

time of hiring. Conclusion: Close the case with a letter of concern that the auctioneer-employer should exercise more care in confirming current registration of auctioneers hired by him.

Allegation: Unprofessional conduct. A lumber company owner said that his former manager had hired his ex-father-in-law to conduct an auction of surplus goods from the lumber company. Only over-stocked and out-dated items were to have been auctioned, but, allegedly, the items were not over-stocked and out-dated. The owner valued the merchandise at \$25,000 and stated that it was sold for \$6,800. The auctioneer provided the Board's investigator with his clerk sheets, contract and bidder information. The county sheriff investigated a complaint alleging the manager stole materials and embezzled money from the lumber company. The investigation showed that there may have been mismanagement, but insufficient evidence of theft. Conclusion: Close the case for no violation. There is sufficient evidence to show that the auctioneer did not violate statutes or rules.

Disciplinary Actions

**DEAN K. GEORGE
EVANSVILLE WI**

SUSPENDED

On 10/21/97 convicted on an Alford Plea in Green County Circuit Court of disorderly conduct and criminal trespass to a dwelling, as party to a crime. Placed on 18 months probation and ordered to provide 160 hours of community service. Suspended for six months effective 11/28/99. Sec. 480.24(2)(b),(c), Stats. RL 126.02(2) Case #LS9805261AUC

**PAUL S. GEORGE
BROOKLYN WI**

SUSPENDED/COSTS

On 1/6/98, pleaded no contest to the charge of disorderly conduct and battery. Placed on 18 months probation and ordered to provide 80 hours of community service. Suspended for one year commencing on 11/28/99. Sec. 480.24(2)(b),(c), Stats. RL 126.02(2) Case #LS9804151AUC

**GEORGE AUCTION SERVICE
EVANSVILLE WI**

REVOKED

By the acts of its owners and representatives, Dean K. George and Paul S. George, George Auction Service has engaged in conduct which evidences a lack of knowledge or ability to apply professional skills. The right to renew the registration of George Auction Service is revoked effective 11/28/99. Sec. 480.24(2)(b),(c), Stats. RL 126.02(2). Case #LS9805211AUC

LANCE A KLUG

FORT ATKINSON WI REPRIMAND/FORFEITURE

License expired on 12/31/96. Did not renew until 2/28/98. Practiced during that period of time without a current license. Effective 10/25/99. Sec. 480.08(1)(a), Stats. Case #LS9910252AUC

Department of Regulation and Licensing
Auctioneers and Auction Companies
P.O. Box 8935
Madison, WI 53708-8935

RETURN SERVICE REQUESTED

REGULATORY DIGEST

Bulk Rate
U.S. Postage
Paid
Madison, WI
Permit No. 1369

Telephone Directory

The Division of Business Licensure & Regulation has a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is:

(608) 266-5511

After dialing this number you are asked to press 1, 2, 3 or 4. For the following requests, please press extension numbers as noted:

Application Forms	Ext. 11
Complaints Against Licensees	Ext. 12
Application Processing & Requirements	Ext. 43
Whether A Person Is Registered	Ext. 442
Fax Number (608) 267-3816	

Board Meetings

March 27, May 22, July 24, September 25, December 11

Verifications

Requests for verifications of license, sent to other states must be in writing. **The cost is \$10.** Please make out check or money order to the Department of Regulation and Licensing.

Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>
Send comments to dorl@drl.state.wi.us

Wisconsin Statutes and Code

Copies of the "Statutes and Administrative Code Relating to the Practice of Auctioneers and Auction Companies" can be ordered from the Department.

G:\newsletters\22000aucdigest.doc

Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated August 1999.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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